

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

MARK GOTTSLEBEN, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

INFORMA MEDIA, INC. F/K/A PENTON MEDIA,
INC.,

Defendant.

CASE NO. 1:22-cv-00866-HYJ-RSK
CLASS ACTION

Chief Judge Hala Y. Jarbou
Magistrate Judge Ray Kent

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT INFORMA MEDIA, INC.'S
MOTION TO EXTEND RESPONSIVE PLEADING DEADLINE**

I. INTRODUCTION.

Defendant Informa Media, Inc. (“Defendant”) respectfully requests that the Court extend its time to file a responsive pleading pursuant to Fed.R.Civ.P. 6(b)(1)(B) for the reasons set forth below.

II. FACTUAL AND PROCEDURAL BACKGROUND.

On July 7, 2023, the Court denied Informa’s motion to dismiss. *See* ECF Nos. 51 and 52. Pursuant to Fed.R.Civ.P. 4, Informa’s answer was due within fourteen (14) days thereafter—July 21, 2023. On July 21, 2023, Informa’s counsel contacted Plaintiff’s counsel and requested a one (1) business day extension of time to file its answer, to July 24, 2023, due to a scheduling error. *See* Korman Declaration. Plaintiff’s counsel indicated that it should not be a problem but that he had to confirm the position with the other members of Plaintiff’s representation team. A few hours later, Plaintiff’s counsel indicated that Plaintiff consented to a one-day extension of time and also incorporated a request that Informa provide certain additional case documentation in response to discovery. *See Id.* at Exhibit A. Informa finalized the Answer while also working on discovery documents. *Id.* Before Informa was able to file a motion to extend time or stipulation, the Court issued an Order to Show Cause directing that Informa show cause in writing as to why the Court should not enter a default judgment and indicated that if Informa wishes to file a responsive pleading, it must file a motion seeking an extension of time under Rule 6(b)(1)(B). *See* ECF no. 53.

III. LEGAL STANDARD.

“Rule 6(b) of the Federal Rules of Civil Procedure provides that when a party moves the court to accept a filing after the relevant deadline, the court may do so “where the failure to [file before the deadline] was the result of excusable neglect.” *Nafziger v. McDermott Int’l, Inc.*, 467

F.3d 514, 522 (6th Cir. 2006). “[t]he governing legal standard for excusable-neglect determinations is a balancing of five principal factors: (1) the danger of prejudice to the nonmoving party, (2) the length of the delay and its potential impact on judicial proceedings, (3) the reason for the delay, (4) whether the delay was within the reasonable control of the moving party, and (5) whether the late-filing party acted in good faith.” *Id.*

IV. ARGUMENT.

Informa’s failure to file its answer on July 21, 2023 is excusable. Once Informa identified the scheduling error, it received consent for a one-day extension of time from Plaintiff and did not act willfully or in bad faith. Informa is also submitting with this Motion a copy of its proposed answer for filing. *See* Korman Decl., Exhibit B. The excusable neglect factors weigh heavily in favor of granting this motion: (1) There is no prejudice to the Plaintiff in the one-day extension—Plaintiff consented to the extension and discovery has been ongoing notwithstanding the one-day extension; (2) the length of the delay is only one day and has not had any impact on the proceedings; (3) the reason for the delay was because of a scheduling error; (4) the delay was not within the moving party’s control given the scheduling error; however, the scheduling error was within the moving party’s control in that the undersigned was mistaken as to the timing of the Answer; and (5) Informa acted in good faith because it requested and obtained consent to file by June 24, 2023. However, Informa neglected to file the stipulation or joint motion regarding the Answer extension on July 21, 2023 before the Court’s closing.

V. CONCLUSION.

For the foregoing reasons, Defendant respectfully requests that the Court accept its Exhibit B answer for filing.

DATED: July 24, 2023

Respectfully submitted,

BLANK ROME LLP

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CERTIFICATE OF COMPLIANCE

The Memorandum in Support of Defendant Informa Media, Inc.'s Motion to Dismiss complies with the word count limitation of W.D. Mich LCivR 7.3(b)(i) because the brief contains 578 words, including headings, footnotes, citations, and quotations, and excluding the parts of the brief exempted under W.D. Mich LCivR. 7.2(c). The word count was generated using Microsoft Word.

DATED: July 24, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys or parties of record.

By: /s/ Ana Tagvoryan
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